IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1366 OF 2005
ALONG WITH
CRIMINAL APPEAL NO.77 OF 2005

Abdul Jalil Kadir Khan and others)..Applicants

Versus

The State of Maharashtra)..Respondent

Smt.Anjali Patil for the Applicants.

Mr.B.R.Patil, A.P.P., for the Respondents.

CORAM: V.G. PALSHIKAR AND
SMT.NISHITA MHATRE, JJ.

DATED: 28TH APRIL 2005

P.C.:

. Criminal Appeal is directed against the order of conviction and sentence passed by the learned Trial Judge convicting the four accused persons under Section 302 read with Section 34 of the Indian Penal Code for burning the wife of Accused No.1.

2. In Criminal Application No.1999 of 2005, bail was granted to the parents of Accused No.1. The present Application is filed, pressed for grant of bail to Accused No.1 who is the husband. Reliance is placed on the observations of the learned Trial Judge in paragraph 16 which reads thus :

> "16. I therefore hold that the accused No.3 poured kerosene and accused No.2 and 4 caught hold of her hands and mouth and this amounts to aiding and abetting. The accused No.1 to 4 to accomplish the task of killing her, have shared the common intention, in that process. The accused No.1 acted as a silent spectator is also equally guilty. Therefore, I answer the point that accused in furtherance of their common intention committed murder of the victim Shamim Banu, I hold them guilty u/s. 302 34 of I.P.C. answering point No.1 accordingly."

3. In the above, it is found by the learned Judge that the Accused No.1 acted as a silent spectator is also equally guilty and therefore found him guilty under Section 304 read with 34 of the Indian Penal Code. Prima facie, in our opinion, there cannot be a worse example of common intention in causing death of a wife. There cannot be a worse example of abatement in bride burning. In such circumstances, we see no reason to grant bail. Bail application rejected.

4. Request for urgent hearing of the Criminal Appeal rejected.